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FIRST GENERAL COUNSEL'S REPORT

CELA

RAD Referral: 14L-18R¹

DATE REFERRED: September 30, 2014

LAST RESPONSE RECEIVED: November 3, 2014

DATE ACTIVATED: November 20, 2014

ELECTION CYCLE: 2012

EXPIRATION OF SOL: July 18, 2017 –
September 12, 2017

SOURCE:

Internally Generated

RESPONDENTS:

Kerry Bentivolio for US Congress and Timothy
Witt in his official capacity as treasurer

MUR: 6622

DATE COMPLAINT FILED: August 2, 2012

DATE OF NOTIFICATION: August 9, 2012

LAST RESPONSE RECEIVED: October 15, 2012

DATE OF ACTIVATION: November 20, 2014

ELECTION CYCLE: 2012

EXPIRATION OF SOL: April 13, 2017 –
July 18, 2017

COMPLAINANT:

Paul Welday

RESPONDENTS:

Kerry Bentivolio
Kerry Bentivolio for US Congress and Timothy
Witt in his official capacity as treasurer
Robert J. Dindoffer
Young Americans for Liberty Inc.'s Liberty Action

¹ The Reports Analysis Division ("RAD") initially referred this matter to the Alternative Dispute Resolution Office ("ADRO") pursuant to the applicable ADRO threshold set forth in Standard 7 of *Reports Analysis Division Review and Referral Procedures for Unauthorized and Authorized Committees for 2011-2012 Election Cycle* at 74-75 (approved by Comm'n Apr. 5, 2011). ADRO later referred this matter to the Office of General Counsel ("OGC") pursuant to Commission procedures directing such a transfer when there is a matter pending in OGC involving the same or similar issues. See Memorandum from Lynn M. Fraser, Director, ADRO, FEC, to Gregory R. Baker, Deputy General Counsel – Administration, FEC (Sept. 30, 2014).

Fund (f/k/a Young Americans for Liberty PAC)²
and Edward King in his official capacity as
treasurer
Kristin M. Lee

**RELEVANT STATUTES
AND REGULATIONS:**

52 U.S.C. § 30104(a)-(b)³
52 U.S.C. § 30116(a)(1)(A)
52 U.S.C. § 30116(a)(2)(A)
52 U.S.C. § 30116(f)
11 C.F.R. § 104.3(d)
11 C.F.R. § 104.14(d)

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: None

I. INTRODUCTION

RAD Referral 14L-18R ("Referral") and MUR 6622 address alleged disclosure violations by Kerry Bentivolio for US Congress ("Committee") during the 2012 election cycle. The Referral states that the Committee omitted \$62,955.44 in disbursements and \$1,588.63 in receipts from its original 2012 April and July Quarterly Reports, including a \$50,000 repayment of a loan from Kerry Bentivolio to the campaign. The reporting of this repayment is also the subject of the Complaint in MUR 6622, which alleges that the Committee failed to justify the \$50,000 payment to the candidate. The Complaint further alleges that Bentivolio and the Committee violated the Act by failing to accurately disclose other contributions and the Committee's cash-on-hand, and by failing to have its treasurer, Bentivolio, sign seven disclosure

² After the Complaint and Responses were filed in this matter, Young Americans for Liberty PAC changed its name to Young Americans for Liberty Inc.'s Liberty Action Fund and named Edward King as its new treasurer.

³ On September 1, 2014, the Federal Election Campaign Act of 1971, as amended (the "Act"), was transferred from Title 2 to new Title 52 of the United States Code.

1 reports.⁴ Additionally, the Complaint alleges that the Committee accepted excessive
2 contributions from Robert J. Dindoffer, Kristin M. Lee, and Young Americans for Liberty Inc.'s
3 Liberty Action Fund (f/k/a Young Americans for Liberty PAC) ("YALFUND").

4 The Committee acknowledges its reporting errors, which it attributes to the inexperience
5 of a campaign staffer. It also explains that the contributions shown on its original reports as
6 excessive were mererly reported incorrectly and actually complied with the Act's limits. The
7 Committee has since changed treasurers and corrected its disclosure reports.

8 We recommend that the Commission open a MUR in the Referral and merge it with
9 MUR 6622, find reason to believe that the Committee violated 52 U.S.C. § 30104(a) and (b)
10 (formerly 2 U.S.C. § 434(a) and (b)) by failing to meet the Act's reporting requirements in
11 various ways, but make no findings against Bentivolio in his personal capacity. Because the
12 responses demonstrate that all of the alleged excessive contributions complied with the Act's
13 limits, we recommend that the Commission find no reason to believe that Robert J. Dindoffer or
14 Kristin M. Lee violated 52 U.S.C. § 30116(a)(1)(A) (formerly 2 U.S.C. § 441a(a)(1)(A)), that
15 YALFUND violated 52 U.S.C. § 30116(a)(2)(A) (formerly 2 U.S.C. § 441a(a)(2)(A)), or that the
16 Committee violated 52 U.S.C. § 30116(f) (formerly 2 U.S.C. § 441a(f)). Lastly, we recommend
17 that the Commission authorize pre-probable cause conciliation with the Committee regarding the
18 apparent reporting violations.

⁴ The cover letter to the Complaint, written by Complainant's counsel, also refers to the Committee's "failure to comply with disclaimer requirements on messages authorized and/or financed by a candidate." *See* Cover Letter from E. Mark Braden to Daniel Petalas, Associate General Counsel for Enforcement, FEC (Aug. 2, 2012). The attached Complaint, however, does not allege any such violation and there is no information to support it, therefore we do not address this issue further.

II. FACTUAL AND LEGAL ANALYSIS

A. Alleged Reporting Violations

Bentivolio was a candidate for the U.S. House of Representatives from Michigan's 11th Congressional District in 2012.⁵ The Committee is Bentivolio's authorized campaign committee and Timothy Witt is its current treasurer.⁶

The Committee was referred to OGC for possible enforcement action regarding its apparent failure to disclose all financial activity on its original 2012 April Quarterly and 2012 July Quarterly Reports.⁷ The Committee amended these reports on July 15 and July 18, 2012, respectively, reflecting additional disbursements not disclosed in the original reports. On September 12, 2012, the Committee further amended both the April and July Quarterly Reports to disclose previously unreported receipts and disbursements. The aggregate amount of additional activity disclosed by the Committee on its amendments is \$64,544.07.

Report	Amount of Increased Receipts	Amount of Increased Disbursements	Total Increased Activity
2012 April Quarterly	N/A	\$50,519.17	\$50,519.17
2012 July Quarterly	\$1,588.63	\$12,436.27	\$14,024.90
			\$64,544.07

Upon receipt of the Referral, OGC notified the Committee on October 15, 2014, and provided it with an opportunity to respond. *See Agency Procedure for Notice to Respondents in Non-Complaint Generated Matters*, 74 Fed. Reg. 38,617 (Aug. 4, 2009). The Committee's Response to the Referral ("Referral Resp.") acknowledges the inaccuracies in the Committee's original

⁵ Bentivolio won the August 7, 2012, primary election and the September 5, 2012, special primary election to fill the remainder of the term of Rep. Thad McCotter, who resigned his seat. Bentivolio lost the 2012 special election to complete Rep. McCotter's term, but won the 2012 general election for his own two-year term. In the 2014 election cycle, Bentivolio lost the August 5, 2014, primary election.

⁶ The Committee amended its Statement of Organization on September 13, 2012, to name Witt as treasurer, replacing Bentivolio, the Committee's original treasurer.

⁷ *See n.1, supra.*

1 filings, but maintains that "the majority of the variance" resulted from its failure to report a
2 March 5, 2012, repayment of a \$50,000 loan Bentivolio made to the Committee, and that there
3 were no undisclosed disbursements to third parties. Referral Resp. at 1 (Nov. 3, 2014).

4 The Committee's disclosure of loans and repayments is also the subject of the Complaint
5 in MUR 6622. First, the Complaint alleges that the Committee failed to provide required
6 documents regarding a \$57,000 bank loan from Fifth Third Bank, which it disclosed on its
7 original 2012 April Quarterly Report.⁸ Compl. at 4 (Aug. 2, 2012). The Complaint further
8 alleges that this loan "disappear[ed]" from the Committee's Amended 2012 April Quarterly
9 Report (filed July 15, 2012) and there was no information indicating that the loan was repaid. *Id.*
10 Instead, the amended report disclosed the receipt of \$58,228.13 in contributions from Bentivolio
11 and \$58,113.13 in loans from him.⁹ *Id.* As mentioned above, following receipt of the
12 Complaint, the Committee filed a Second Amended 2012 April Quarterly Report (Sept. 12,
13 2012), which disclosed \$58,083.13 in loans from Bentivolio and only \$115.00 in contributions
14 from him.¹⁰

15 As to loan repayments, the original 2012 April Quarterly Report disclosed no loan
16 repayments and no payments to Bentivolio for any other purpose, but the Amended 2012 April
17 Quarterly Report (filed July 15, 2012) disclosed a \$50,000 payment to Bentivolio on March 5,

⁸ See 2012 April Quarterly Report at 6, 8, available at <http://docquery.fec.gov/pdf/107/12970934107/12970934107.pdf>.

⁹ See Amended 2012 April Quarterly Report at 6-7, available at <http://docquery.fec.gov/pdf/481/12952492481/12952492481.pdf>. The Complaint concludes that the Committee may have double-counted the monies it received from Bentivolio as both contributions and loans. Compl. at 4-5. The Complaint also alleges that Committee debt to Bentivolio disappeared in its next-filed report – the July Quarterly – without explanation. Compl. at 4. The Committee's Amended 2012 July Quarterly Report (filed July 18, 2012) does not disclose the debts, only new candidate loans from Bentivolio to the Committee on June 19, 25, and 30, 2012, which total \$65,000. See Amended 2012 July Quarterly Report at 14, 20-22, available at <http://docquery.fec.gov/pdf/289/12952522289/12952522289.pdf>.

¹⁰ See Second Amended 2012 April Quarterly Report (Sept. 12, 2012) at 6-7, 11-12, available at <http://docquery.fec.gov/pdf/354/12952908354/12952908354.pdf>.

1 2012, as an "Other Disbursement."¹¹ The Complaint alleges that the Committee failed to justify
2 this payment to Bentivolio, in that the Committee did not properly identify the disbursement to
3 the candidate as a loan repayment. Compl. at 3. As stated above, the Committee filed a Second
4 Amended 2012 April Quarterly Report (filed Sept. 12, 2012) — after the Complaint's filing —
5 in which it disclosed its \$50,000 payment to Bentivolio on March 5, 2012, as a loan repayment.¹²

6 The Complaint alleges additional reporting violations, including the Committee's failure
7 to carry over and account for its cash-on-hand balance between the Amended 2012 April
8 Quarterly Report and the Amended 2012 July Quarterly Report, and between the Amended 2012
9 July Quarterly Report and the original 2012 Pre-Primary Report.¹³ The Complaint also alleges
10 that the Committee failed to justify a second \$50,000 payment to Bentivolio, on July 5, 2012,
11 which it disclosed on the Committee's original 2012 Pre-Primary Report as a contribution
12 refund.¹⁴ On the Committee's Amended 2012 Pre-Primary Report (Sept. 12, 2012), however, it
13 disclosed the \$50,000 payment to Bentivolio as a loan repayment.¹⁵ Finally, the Complaint
14 alleges that the Committee filed multiple reports without the signature of the Committee's
15 treasurer or assistant treasurer. Compl. at 3. At that time, the Committee's Statement of
16 Organization identified Bentivolio as its treasurer and Robert Dindoffer as assistant treasurer, but

¹¹ See Amended 2012 April Quarterly Report (July 15, 2012) at 10, *available at* <http://docquery.fec.gov/pdf/481/12952492481/12952492481.pdf>.

¹² See Second Amended 2012 April Quarterly Report (Sept. 12, 2012) at 10, *available at* <http://docquery.fec.gov/pdf/354/12952908354/12952908354.pdf>.

¹³ See Amended 2012 April Quarterly Report (July 15, 2012) at 4 (\$67,100.41 ending cash-on-hand), *available at* <http://docquery.fec.gov/pdf/481/12952492481/12952492481.pdf>; Amended 2012 July Quarterly Report (July 18, 2012) at 4 (\$0 starting cash-on-hand and \$91,183 ending cash-on-hand), *available at* <http://docquery.fec.gov/pdf/289/12952522289/12952522289.pdf>; 2012 Pre-Primary Report (July 26, 2012) at 4 (\$0 starting cash-on-hand), *available at* <http://docquery.fec.gov/pdf/656/12952598656/12952598656.pdf>.

¹⁴ See 2012 Pre-Primary Report at 4, *available at* <http://docquery.fec.gov/pdf/656/12952598656/12952598656.pdf>.

¹⁵ See Amended 2012 Pre-Primary Report at 12, *available at* <http://docquery.fec.gov/pdf/897/12972179897/12972179897.pdf>.

1 Deborah ("Debbie") Llewellyn signed all seven of the Committee's reports that pre-dated the
2 Complaint.¹⁶ *Id.*

3 The Committee's Response to the Complaint asserts that most of the disclosure errors
4 were "mainly input errors resulting from inexperience with the FEC software." Committee
5 Resp. at 3 (Sept. 14, 2012). Regarding the alleged unjustified payments to Bentivolio, the
6 Committee explains that the \$100,000 in payments constituted loan repayments to him. *Id.* at 2.
7 Specifically, Bentivolio loaned over \$58,000 to his campaign in January 2012, and the
8 Committee repaid him \$50,000 in March 2012.¹⁷ *Id.* The Committee also asserts that Bentivolio
9 again loaned the Committee over \$50,000 in June 2012, and the Committee repaid him \$50,000
10 in July 2012. *Id.* The Committee acknowledges that it erred by disclosing the first candidate
11 loan as a loan from Fifth Third Bank. *Id.*

12 The Committee further admits that Llewellyn signed and filed a number of its reports,
13 and that it never filed an amended Statement of Organization naming her as treasurer or assistant

¹⁶ See 2012 April Quarterly Report at 1 (signed Deborah Llewellyn), *available at* <http://docquery.fec.gov/pdf/107/12970934/107/12970934107.pdf>; Amended 2012 April Quarterly Report at 1 (signed Deborah Llewellyn), *available at* <http://docquery.fec.gov/pdf/481/12952492481/12952492481.pdf>; 2012 July Quarterly Report at 1 (signed Debbie Llewellyn), *available at* <http://docquery.fec.gov/pdf/779/12971461779/12971461779.pdf>; Amended 2012 July Quarterly Report at 1 (signed Debbie Llewellyn), *available at* <http://docquery.fec.gov/pdf/289/12952522289/12952522289.pdf>; 2012 Pre-Primary Report at 1 (signed Deborah Llewellyn), *available at* <http://docquery.fec.gov/pdf/656/12952598656/12952598656.pdf>; 48 Hour Notice of Contributions/Loans Received (July 23, 2012) (signed Llewellyn Deborah) *available at* <http://docquery.fec.gov/pdf/006/12971832006/12971832006.pdf>; 48 Hour Notice of Contributions/Loans Received (July 26, 2012) (signed Llewellyn Deborah) *available at* <http://docquery.fec.gov/pdf/639/12971834639/12971834639.pdf>; 48 Hour Notice of Contributions/Loans Received (July 30, 2012) (signed Llewellyn Deborah) *available at* <http://docquery.fec.gov/pdf/158/12971836158/12971836158.pdf>; and 48 Hour Notice of Contributions/Loans Received (Aug. 2, 2012) (signed Llewellyn Deborah) *available at* <http://docquery.fec.gov/pdf/414/12971839414/12971839414.pdf>.

¹⁷ After the MUR 6622 Complaint was filed, Bentivolio met with OGC Staff to discuss a possible *sua sponte* submission and provide additional details regarding the \$100,000 the Committee paid Bentivolio as outlined in the Complaint. During that meeting, Bentivolio explained that he used the proceeds from two separate sales of his reindeer business — he repurchased the business after the first sale at the same price — to fund \$80,000 of the \$100,000 he loaned to his Committee (the remaining \$20,000 came from Bentivolio's other funds). To date, Bentivolio has not filed a *sua sponte* submission. We make no recommendations regarding the propriety of the underlying sales and purchases of the business.

1 treasurer. Committee Resp. at 1. The Committee also suggests that the remainder of the errors
2 outlined in the Complaint resulted from Llewellyn's failure to use the same file for all reports,
3 which "led to the data not being auto-populated." *Id.* at 2-3. This oversight caused errors in the
4 Committee's cumulative reporting of cash-on-hand, "Election Cycle-to-Date" activity, and debt
5 information. *Id.* The Response also acknowledges that Llewellyn erroneously recorded loans
6 from the candidate as both loans and contributions (on Schedule A), adding that "[s]he was
7 attempting to record most of the listed receipts as loans from the candidate to the committee but
8 obviously failed to record them properly." *Id.* at 3.

9 On or about September 12, 2012, the Committee filed an amended Statement of
10 Organization to name Witt as treasurer, and Witt filed amendments to the Committee's 2012
11 April Quarterly, 2012 July Quarterly, and 2012 Pre-Primary Reports to correct the errors
12 identified in the Complaint.¹⁸ Committee Resp. at 3. On December 26, 2012, Witt filed a
13 Miscellaneous Document ("Form 99") on behalf of the Committee stating that since becoming
14 treasurer, he has instituted procedures to ensure that the Committee's reports fully disclose
15 receipts and disbursements.

16 The Act requires committee treasurers to file reports of receipts and disbursements in
17 accordance with the provisions of 52 U.S.C. § 30104 (formerly 2 U.S.C. § 434). 52 U.S.C.
18 § 30104(a)(1) (formerly 2 U.S.C. § 434(a)(1)); 11 C.F.R. § 104.1(a). These reports must include,
19 *inter alia*, the total amount of receipts and disbursements, including the appropriate itemizations,
20 where required. 52 U.S.C. § 30104(b) (formerly 2 U.S.C. § 434(b)); 11 C.F.R. § 104.3.
21 Treasurers are responsible for the accuracy of the information contained in committee disclosure

¹⁸ See Second Amended 2012 April Quarterly Report (Sept. 12, 2012), *available at* <http://docquery.fec.gov/pdf/354/12952908354/12952908354.pdf>; Second Amended 2012 July Quarterly Report (Sept. 12, 2012), *available at* <http://docquery.fec.gov/pdf/354/12952908354/12952908354.pdf>; and Amended 2012 Pre-Primary Report (Sept. 12, 2012), *available at* <http://docquery.fec.gov/pdf/897/12972179897/12972179897.pdf>.

1 reports, as well as the timely complete filing of those reports. 11 C.F.R. § 104.14(d). Treasurers
2 must also sign each disclosure report. 52 U.S.C. § 30104(a) (formerly 2 U.S.C. § 434(a));
3 11 C.F.R. §§ 104.1(a), 104.14(a). In addition to complete and accurate disclosure of receipts and
4 disbursements, the Act also requires accurate disclosure of the amount of cash-on-hand at the
5 beginning and end of the reporting period. 52 U.S.C. § 30104(b)(1) (formerly 2 U.S.C.
6 § 434(b)(1)); 11 C.F.R. § 104.3(a)(1). The Act and Commission regulations further require
7 political committees to continuously report the amount and nature of their outstanding debts until
8 those debts are extinguished. 52 U.S.C. § 30104(b)(8) (formerly 2 U.S.C. § 434(b)(8));
9 11 C.F.R. §§ 104.3(d), 104.11(a).

10 The Committee did not comply with the Act's reporting requirements in several ways.
11 As noted in the Referral, it failed to disclose an aggregate of \$64,544.07 in receipts and
12 disbursements on its original 2012 April and July Quarterly Reports filed with the Commission.
13 The Committee also misreported information regarding candidate loans: it inaccurately
14 identified a bank as the lender, and it omitted debts and loan repayments from one report to the
15 next. The Committee also concedes that it double-counted loan receipts and failed to carry over
16 and account for cash-on-hand, and did not accurately disclose the cumulative election cycle-to-
17 date amounts of its receipts and disbursements. As a result of these reporting errors, the
18 Committee inaccurately reported its cash-on-hand for the period covered by its 2012 April
19 Quarterly Report through the Committee's September 12, 2012, amendments, which included the
20 cash-on-hand information on the Committee's 2012 July Quarterly and Pre-Primary Reports.
21 Further, the Committee acknowledges that someone other than its treasurer signed its disclosure
22 reports.

1 Accordingly, we recommend that the Commission open a MUR in RAD Referral 14L-
2 18R and merge it with MUR 6622, and find reason to believe that the Committee violated
3 52 U.S.C. § 30104(a) and (b) (formerly 2 U.S.C. § 434(a) and (b)) by filing reports without the
4 signature of the treasurer and by failing to accurately disclose its receipts, disbursements, debts,
5 and cash-on-hand information.

6 As for Bentivolio, at the time of the apparent reporting violations he was the Committee's
7 treasurer of record. Accordingly, he was responsible for signing and filing accurate disclosure
8 reports. See 52 U.S.C. § 30104(a)(1) (formerly 2 U.S.C. § 434(a)(1)); *Statement of Policy*
9 *Regarding Treasurers Subject to Enforcement Proceedings*, 70 Fed. Reg. 3, 5 (Jan. 3, 2005)
10 ("Treasurer Policy"). Although Bentivolio failed to sign the Committee's reports and those
11 reports contained erroneous information, the available information regarding his conduct does
12 not appear to merit making personal-capacity findings against him in connection with his service
13 as treasurer. See *Treasurer Policy*, 70 Fed. Reg. at 5 (Commission makes personal-capacity
14 findings against a treasurer only when the treasurer had knowledge that his conduct violated a
15 duty imposed by law, or that he recklessly failed to fulfill his duties under the Act and
16 regulations or intentionally deprived himself of facts giving rise to the violations). Further,
17 although Bentivolio loaned the monies and received the repayments that are the central focus of
18 the apparent reporting violations, the available information does not suggest that he otherwise
19 violated the Act in connection with these funds. Therefore, we recommend that the Commission
20 dismiss the allegation that Kerry Bentivolio violated the Act and close the file as to him.

B. Alleged Excessive Contributions

The Act prohibits any person from making contributions to any candidate and the candidate's authorized political committee in excess of the limits at 52 U.S.C. § 30116(a) (formerly 2 U.S.C. § 441a(a)), and candidate committees are prohibited from knowingly accepting excessive contributions. 52 U.S.C. § 30116(f) (formerly 2 U.S.C. § 441a(f)). For the 2011-2012 election cycle, individuals were permitted to contribute a maximum of \$2,500 to a candidate or candidate committee per election. 52 U.S.C. § 30116(a)(1)(A) (formerly 2 U.S.C. § 441a(a)(1)(A)). Under the Act, multicandidate committees may make contributions to candidates up to \$5,000 per election. 52 U.S.C. § 30116(a)(2)(A) (formerly 2 U.S.C. § 441a(a)(2)(A)).

The Complaint alleges that the Committee received three contributions in excess of the Act's limits: (1) \$3,000 from Robert J. Dindoffer; (2) \$5,000 from Kristin M. Lee; and (3) \$5,250 from YALFUND, a multicandidate committee. Compl. at 3-4. The Respondents deny these allegations, and the available information indicates that each of these contributions complied with the limits but appeared excessive because the Committee misreported them. Specially, the Committee failed to properly attribute the Dindoffer contributions between the special primary election and the primary election;¹⁹ misreported a \$500 contribution from Lee as

¹⁹ The Committee asserts that Dindoffer's contributions were partially designated to the general election and partially designated to the primary election. Committee Resp. at 2. Dindoffer states in his response to the Complaint that he initially intended that the contributions would be attributed partly for the regular primary and partly for the regular general election. Dindoffer Resp. at 1 (Sept. 21, 2012). After a special election was called, however, he "requested that the portion attributed to the regular general election be re-attributed to the special primary." *Id.* The Committee amended its 2012 July Quarterly Report to correct this error. The Committee's Second Amended 2012 July Quarterly Report, filed on September 12, 2012, discloses four Dindoffer contributions: (1) \$2,500 on June 3 designated for the 2012 primary election; (2) \$500 on June 14 designated for the 2012 special primary election; (3) \$2,500 on June 18 designated for the 2012 primary election; and (4) a \$515.57 in-kind contribution on June 20 designated for the 2012 special primary election. See Second Amended 2012 July Quarterly Report at 7-8, available at <http://docquery.fec.gov/pdf/354/12952908354/12952908354.pdf>. On June 13, 2012, the Committee refunded the first \$2,500 contribution. *Id.* at 21.

1 \$5,000;²⁰ and failed to properly attribute three contributions earmarked for Bentivolio by the
2 individual contributors, instead attributing the contributions to YALFUND, the entity that was
3 merely acting as a conduit.²¹ Because the available information shows that the three contributors
4 did not make excessive contributions, only that the Committee misreported them as such, we
5 recommend that the Commission find no reason to believe Robert J. Dindoffer or Kristin M. Lee
6 violated 52 U.S.C. § 30116(a)(1)(A) (formerly 2 U.S.C. § 441a(a)(1)(A)) and no reason to
7 believe that YALFUND violated 52 U.S.C. § 30116(a)(2)(A) (formerly 2 U.S.C.
8 § 441a(a)(2)(A)) and close the file as to them. We also recommend that the Commission find no
9 reason to believe that the Committee violated 52 U.S.C. § 30116(f) (formerly 2 U.S.C.
10 § 441a(f)). We recommend, however, that the Commission find reason to believe that the
11 Committee violated 52 U.S.C. § 30104(b) (formerly 2 U.S.C. § 434(b)) by misreporting the three
12 contributions.

²⁰ The Committee and Lee both maintain that she contributed \$500, not \$5,000. Committee Resp. at 2; Lee Resp. (Aug. 27, 2012). The Committee adds that the discrepancy was the result of a typographical error. Committee Resp. at 2. Lee also attached a copy of the receipt from the Committee recognizing the \$500 contribution and a credit card statement for verification. Lee Resp. The Committee's Second Amended 2012 July Quarterly Report, filed on September 12, 2012, reflects the \$500 contribution. See Second Amended 2012 July Quarterly Report at 10, available at <http://docquery.fec.gov/pdf/354/12952908354/12952908354.pdf>.

²¹ Committee Resp. at 2; YALFUND Resp. at 2 (Oct. 15, 2012). Specifically, on June 14, 2012, YALFUND forwarded to the Committee three earmarked contributions that totaled \$5,250: Cyan Banister \$2,500; Scott Banister \$2,500; and William Lawson \$250. YALFUND Resp. at 2. The Committee's Third Amended 2012 July Quarterly Report, filed on December 26, 2012, described the YALFUND \$5,250 amount as the "[t]otal earmarked through conduit. PAC limit not affected," and listed the three individual contributions as memo entries. See Third Amended 2012 July Quarterly Report (Dec. 26, 2012) at 13, available at <http://docquery.fec.gov/pdf/237/12963868237/12963868237.pdf>. See 52 U.S.C. § 30116(a)(8) (formerly 2 U.S.C. § 441a(a)(8)); 11 C.F.R. § 110.6(c)(2).

19

IV. RECOMMENDATIONS

1. Open a MUR in RAD Referral RR 14L-18R.
2. Merge the new MUR with MUR 6622.
3. Find reason to believe that Kerry Bentivolio for US Congress and Timothy Witt in his official capacity as treasurer violated 52 U.S.C. § 30104(a) and (b) (formerly 2 U.S.C. § 434(a) and (b)).
4. Find no reason to believe that Kerry Bentivolio for US Congress and Timothy Witt in his official capacity as treasurer violated 52 U.S.C. § 30116(f) (formerly 2 U.S.C. § 441a(f)).
5. Find no reason to believe that Robert J. Dindoffer or Kristin M. Lee violated 52 U.S.C. § 30116(a)(1)(A) (formerly 2 U.S.C. § 441a(a)(1)(A)).
6. Find no reason to believe that Young Americans for Liberty Inc.'s Liberty Action Fund (f/k/a Young Americans for Liberty PAC) and Edward King in his official capacity as treasurer violated 52 U.S.C. § 30116(a)(2)(A) (formerly 2 U.S.C. § 441a(a)(2)(A)).

7. Dismiss the allegation that Kerry Bentivolio violated the Act.
8. Close the file as to Kerry Bentivolio, Robert J. Dindoffer, Kristin M. Lee, and Young Americans for Liberty Inc.'s Liberty Action Fund (f/k/a Young Americans for Liberty PAC) and Edward King in his official capacity as treasurer.
9. Approve the attached Factual and Legal Analyses.
10. Authorize pre-probable cause conciliation with Kerry Bentivolio for US Congress and Timothy Witt in his official capacity as treasurer.
11. Approve the attached conciliation agreement.
12. Approve the appropriate letters.

3-20-15
Date

BY: Kathleen Guith
Kathleen Guith
Deputy Associate General Counsel

Mark Allen
Mark Allen
Acting Assistant General Counsel

Roy Q. Luckett
Roy Q. Luckett
Attorney

16044101-0001